

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:11cr75

UNITED STATES OF AMERICA)
)
v.)
)
NELSON JIMENEZ (6))
_____)

ORDER

THIS MATTER comes before the Court upon the defendant's Motion to Review Detention Order, pursuant to Rule 58(g)(2)(A) of the Federal Rules of Criminal Procedure.¹ (Doc. No. 31). The defendant seeks amendment of the Release Order (Doc. No. 27) to remove the condition of location monitoring.

On February 23, 2011, the defendant was arrested pursuant to a complaint charging him with conspiracy to defraud the United States through false claims, in violation of 18 U.S.C. § 286. (Doc. No. 3: Complaint; Doc. No. 36: Executed Arrest Warrant). A magistrate judge released the defendant on conditions after a hearing on March 1, 2011. (Doc. No. 27: Order).

At the detention hearing, the government proffered facts against the defendant tending to show that he was involved in a scheme to file false tax refund claims using stolen Puerto Rican Social Security numbers. (Doc. No. 61: Hr'g Tr. at 4-5). The government alleged that the defendant presented a risk of flight based on his transferring money to Costa Rica and traveling out of the country frequently. (*Id.* at 9). The defendant argued, in part, that he has ties to the community here, including family and a business. (*Id.* at 11). The magistrate judge adopted the government's and probation office's recommendation that the defendant be released on conditions, including location monitoring.

¹ Motions to review release orders are addressed at 18 U.S.C. § 3145(a).

A district court is required to make an independent, de novo determination when acting on a motion to review a magistrate judge's pretrial release order. United States v. Stewart, 19 F. App'x 46, 48 (4th Cir. 2001)(citing United States v. Rueben, 974 F.2d 580, 585-86 (5th Cir. 1992). However, a district court is not required to hold an additional evidentiary hearing as part of its review. United States v. King, 849 F.2d 485, 489-90 (11th Cir. 1988); United States v. Hare, 873 F.2d 796, 799 (5th Cir. 1989). After conducting its independent review, a district court may explicitly adopt the magistrate judge's order without making duplicate findings, or may state additional reasons supporting its decision. King, 849, F.2d at 490-91.

Accordingly, the Court has reviewed the entire record in this case de novo. The Court finds that the magistrate judge correctly assessed the factors set forth in 18 U.S.C. § 3142(g) in reaching the conclusion that location monitoring is reasonably necessary to assure the appearance of the defendant as required, 18 U.S.C. § 3142(c)(1)(B)(xiv), and adopts the magistrate judge's order.

IT IS, THEREFORE, ORDERED that the defendant's Motion to Review Detention Order (Doc. No. 31) is **DENIED**._____

Signed: May 10, 2011



Robert J. Conrad, Jr.
Chief United States District Judge

